

**Discussion Document on Department Fees
Virginia Department of Conservation and Recreation
September 8, 2008**

Overview

The Code of Virginia specifies that fees shall be set at a level sufficient for the Department to carry out its responsibilities under the Stormwater Management Law and attendant regulations. The attached document outlines the program costs expected by the Department for both program oversight (28%) and local program administration (72%) and the estimated revenue that may be received for both based on the best data available to the Department.

Like the fees that are being established for localities to operate a qualifying local program, fees for the Department to administer programs and to provide statewide program oversight are also justifiable. All such fees have been established commensurate with the services projected to be rendered. Revenue generated by both the localities and the Department will be periodically assessed to ensure that the fees have been appropriately set and the fees may be adjusted through periodic regulatory actions should significant deviations become apparent.

While it has recently been claimed that the Department may generate \$5 - \$10 million from its state oversight portion of the fees, the Department has no evidence over its three years of administering the program to support this claim. If additional regulated land disturbing activities are occurring in localities, they are not seeking the required general permit coverage. As such, the Department suggests that the fees developed based on the attached computations are justifiable and necessary.

It should also be noted that the fees collected by the Agency for program oversight (28%) do not reduce in any manner the amount calculated as necessary for a local government to run a qualifying local program as that portion of the fees has been set to cover 100% of the estimated local program costs per calculations shared with the TAC previously. In other words, the 72% retained by the locality should be sufficient for a locality to administer a program. Additionally, there is nothing in the law or regulations that precludes a locality from establishing additional fees under other authorities granted to localities.

Summary

- It is estimated that localities will operate 106 qualifying local programs.
- The Department will operate 73 Board authorized local programs (comprised of 219 localities).
- Based on DCR's projection of 3,000 projects being permitted a year (based on historical trends), revenue generated from construction permit fees is calculated to be \$9,624,900. 28% of this revenue for DCR's program oversight is \$2,694,972.
- The total estimated statewide staffing needed to be funded from the 28% program oversight portion of the fee is 30 FTE at a cost of \$2.65 million per year for personnel and associated expenses. This represents an increase of about \$1.65 million dollars over current revenue (\$1 million) brought in from existing fees. The 30FTE reflect both existing staff currently funded through existing fees and new staff that will need to be added to the program to carry out the expanded responsibilities under the new fee structure.
- Program oversight includes costs associated with program audits, technical assistance, complaint resolution, program coordination and development, enforcement, and BMP clearinghouse and enterprise website development and maintenance, as well as general

expenses such as rent, utilities, computers, training, vehicles, travel, BMP clearinghouse contracts, enterprise website expenses, printing expenses, etc.

- From the 28% program oversight perspective, DCR's expenses generally equate with expected revenue.
- Based on DCR's projection of 730 projects to be administered by DCR in the 73 local programs it will administer, revenue generated from the 72% portion of the revenue is \$1,893,528.
- The total estimated staffing needed for DCR to administer 73 local programs to be funded from the 72% portion of the fee is 24 FTE at a cost of approximately \$1.96 million per year for personnel and associated expenses.
- From DCR's portion of the 72% fee, given the assumptions made, DCR's expenses generally equate with expected revenue.

Category	Staff (FTE)	Total Cost	Revenue
Program Oversight	30	\$2,652,704	28% = \$2,694,972
Administration of 73 local programs	24	\$1,962,163	72% = \$1,893,528
Totals	54	\$4,614,867	\$4,588,500

Background

Number of Possible Stormwater Management Programs:

The Code of Virginia stipulates that “[a]ny locality located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.), or any locality that is partially or wholly designated as an MS4 under the provisions of the federal Clean Water Act, shall be required to adopt a local stormwater management program for land disturbing activities”. Additionally it specifies that any locality not specified above may elect to adopt and administer a local stormwater management program for land disturbing activities pursuant to this article. However, in the absence of the delegation of a stormwater management program to one of the non-required localities, the Department will administer the responsibilities of this article within the given jurisdiction. The Department calculates the total number of programs as follows:

Cities (39): 27 must adopt; 12 may opt-in
 Counties (95): 34 must adopt; 61 may opt-in
 Towns (191): 45 must adopt; 146 may opt-in

Total of “Locality Run” Programs: 27 + 34 + 45 = 106

Note: Towns may cooperate with counties and the number of locality run programs may be less. However, as most of the towns are MS4 or Bay Act, it reasonable to plan on all towns having a program.

Total of “possible” DCR Administered Programs: 12 + 61 + 146 = 219

Note: Counties and the Towns within the individual County will be grouped as one program for consistency throughout a County. Therefore, for planning purposes, the total for DCR administered programs is estimated to be 73.

Total of “DCR Administered” Programs: 12 + 61 = 73

Therefore, the total of local and DCR administered stormwater programs is:
106 + 73 = 179 locality or DCR run programs statewide

Revenue Estimates from Fees

Revenue is calculated using the best information available to the Department, its three-year permit history associated with administering the construction permitting program. The history of the program is as follows:

FY2005 = 770 permits (January 29 – June 30)

FY2006 = 2678 permits

FY2007 = 2707 permits

FY2008 = 2513 permits

If we assume 3,000 permits will be issued annually and the project distribution by land-disturbance from the August 29, 2006 TAC handouts, the calculated fees are as follows:

Project Analysis by Acres – 3,000 permits and Fees:

Project Size	% of Total	# of permits		Cost of permit		Revenue Generated
≥ 2,500sqft, < 0.5 acre	7	210	x	\$290	=	\$60,900
≥ 0.5 acre, < 1acre	8	240	x	\$1,500		\$360,000
≥1 acre, < 5 acres	40	1,200	x	\$2,700		\$3,240,000
≥5 acres, < 10 acres	17	510	x	\$3,400		\$1,734,000
≥10 acres, < 50 acres	23	690	x	\$4,500		\$3,105,000
≥50 acres, < 100 acres	3	90	x	\$6,100		\$549,000
≥100 acres	2	60	x	\$9,600		\$576,000
Total fee revenue						\$9,624,900
DCR's 28% of Fees						\$2,694,972

Oversight of Locality and DCR Administered Stormwater Management Programs: An Explanation of DCR's Activities Funded by the 28% share of the VSMP permit fee.

The Stormwater Management Law allows for DCR to retain funding from the permit fees (no more than 30%) to cover the costs of administering and providing oversight of the statewide stormwater management program. It should be noted that the fees needed by the Department per these computations, support a 28/72% split between the Department and the qualifying local programs.

Under program oversight, DCR will be responsible for the auditing of all local programs on a periodic cycle to insure compliance. A large initial workload will exist in program development including DCR support of the development and review of local program submittals to the Virginia Soil and Water Conservation Board. Associated program development issues will shift through time, but remain indefinitely. Other technical assistance will include supporting local plan review, inspections, and BMP questions. Further, DCR will be required to respond to complaints not resolved at the local level and will need to address issues related to permit issuance and fee accounting. In addition, DCR will develop and maintain the BMP Clearinghouse and the enterprise website and maintain the stormwater management handbook.

- 30 FTE x current average salary and benefits of \$35.46/hr x 2080 hrs/yr = \$2,212,704
- 30 FTE x \$8,000 for administrative expenses including rent, utilities, computers, training, travel, printing expenses, etc. = \$240,000
- Annual contract costs associated with enterprise website and BMP Clearinghouse = \$200,000
- Total cost = \$2,652,704 million

A detailed explanation of DCR oversight activities for the stormwater management program is as follows:

1. Program Audits – 4FTE

DCR staff will conduct program audits on all local and DCR administered stormwater management programs. The audits will evaluate compliance with the Stormwater Management Act and attendant regulations. The audit will evaluate the following:

- Local program ordinance and procedures
- Stormwater plan reviews
- Inspections of active projects
- Inspections of completed projects and associated stormwater BMPs
- Compliance and enforcement efforts
- Complaint responses
- General Permit coverage

A 3-year review cycle would utilize two 2-member teams. The review effort will be as follows:

- 3-year cycle – 60 programs reviewed per year
- Each team to review 30 programs per year
- Time for one program review – 1 week
- Time for one program Corrective Action plan and Technical Assistance for program development – 0.5 week

Program Audit Staffing need = 4 FTE

2. Program Technical Assistance – 5FTE

DCR staff will provide technical assistance to local programs regarding plan reviews, inspections, BMPs, and interpretations of the Stormwater Management Act and attendant regulations. DCR staff presently provide this assistance in the ESC Program and staff records indicate an average assistance to each program of 6 days per year. DCR field staff or contractors implementing the program locally will need equivalent support.

179 programs x 6 days = 1074 days x 8 hrs/day = 8,592 hrs

Staff estimate for technical assistance = 8,592 hrs / 1,832 hrs/staff = 4.7

Program Technical Assistance support need = 5 FTE

3. Complaint Resolution by DCR – 3FTE

DCR staff will respond to complaints regarding stormwater management issues that are not resolved satisfactorily by the locally run programs and in support of regional DCR implementing staff. Based on DCR staff records, approximately 212 complaints are received annually. Time estimates for complaint response varies from 1 day to several weeks. The average time for complaint resolution is approximately 3 days.

Complaint Response – time/staff estimates:

$212 \text{ complaints} \times 3 \text{ days/complaint} = 636 \text{ days} \times 8 \text{ hrs/day} = 5,088 \text{ hrs}$

$\text{Staff estimate for complaints} = 5,088 \text{ hrs} / 1,832 \text{ hrs/staff} = 2.8 \text{ Staff}$

Program Complaint Resolution Assistance support need = 3 FTE

4. DCR Program Coordination and Development by DCR – 12FTE

For DCR run local programs, DCR staff will spend considerable time and effort in coordinating with localities and in ensuring the proper integration of the DCR run stormwater management program with the locality's related permitting programs. Staff will have to meet regularly with local staff to properly integrate project submissions, reviews, approvals, and permitting. Also, there is the initial workload associated with assisting localities in preparation of their program submittals for the Virginia Soil and Water Conservation Board and then on-going to assist with corrective actions following program reviews, etc.

$73 \text{ DCR-run programs} \times 3 \text{ weeks/locality} = 219 \text{ weeks} \times 40 \text{ hrs/week} = 8,760 \text{ hrs}$

$106 \text{ local-run programs} \times 1.5 \text{ weeks/locality} = 159 \text{ weeks} \times 40 \text{ hrs/week} = 6,360 \text{ hrs}$

$\text{Staff estimate for program coordination} = 15,120 \text{ hrs} / 1,832 \text{ hrs/staff} = 8.3 \text{ Staff}$

Program management, EPA coordination, record oversight, permit tracking, reporting, regulatory coordination, and financial management = 4 Staff

Program Coordination and Development support need = 12 FTE

5. DCR Enforcement Actions – 4FTE

DCR may become involved in enforcement where compliance is not achieved at the local level. The majority of enforcement actions are successful in their initial stages. However, some compliance issues are not resolved locally and require more significant enforcement responses in order to achieve compliance or extract penalties.

If we assume that 3,000 permits will be issued annually and that the occasional significant enforcement actions equate to an average of 2.5 hours per permit issued, then enforcement time will require 7,500 staff hours per year or 4.1 staff.

Program Enforcement Action support needs = 4 FTE

6. Enterprise Website – 1FTE

DCR will develop and implement an enterprise website related to the implementation and tracking of the consolidated stormwater management program. The enterprise site will allow for online payment of fees, distribution of the fees paid to localities and DCR, general permit issuance and program reporting. After the initial development and testing costs, DCR will have costs associated with the operation and maintenance of the enterprise site. These operation and maintenance costs are expected to total \$100,000 per year to cover annual server and network costs. Enterprise Website support needs = 1 FTE plus annual server and network costs

7. BMP Clearinghouse and Website – 1FTE

DCR will develop and oversee a BMP Clearinghouse and website to provide up-to-date information related to stormwater management practices and program guidance. The clearinghouse will require development and maintenance contracts with the Virginia Water Resources center at Virginia Tech. The anticipated costs associated with the oversight and maintenance of the clearinghouse is approximately \$100,000 per year. BMP Clearinghouse and Website support needs = 1 FTE plus annual contract costs

General Breakdown for Use of VSMP Permit Fee			
Permit Fee Breakdown	Activity	Locally Required or Adopted Program	DCR Run Program
75%	site plan review	local	DCR
	site plan approval	local	DCR
	permit issuance	local	DCR
	site inspection	local	DCR
	enforcement	local	DCR
	permanent BMP approval	local	DCR
	permanent BMP monitoring	local	DCR
	permit reporting and accounting	local	DCR
25%	program audit	DCR	DCR
	program technical assistance	DCR	DCR
	complaint resolution	DCR	DCR
	program development & mgmt	local/DCR	DCR
	permit issuance coordination	local/DCR	DCR
	enforcement	DCR	DCR
	enterprise website	DCR	DCR
	BMP clearing house	DCR	DCR

Comparison of DCR's Costs versus 28% of Fees

DCR's staffing and oversight costs = \$2,652,704

DCR's Revenue from 28% of Fees = \$2,694,972

DCR Administered Local Stormwater Management Programs: An Explanation of DCR's Activities Funded by the 72% share of the VSMP permit fee.

As estimated previously, DCR is expecting to operate the Stormwater Management Program for 73 localities. DCR staff expects that the 73 localities will have lower growth and development rates than the programs required to develop or electing to adopt a stormwater management program. The proposed permit fees (72% of the proposed fees) provide funding for DCR staff or for contractual support to administer the programs.

DCR Administered Local Programs – time/staff estimates (72%)

Project Analysis by Acres:

Project Size	% of Total	# of permits
≥1 acre, < 5 acres	47	343
≥5 acres, < 10 acres	20	146
≥10 acres, < 50 acres	27	197
≥50 acres, < 100 acres	4	29
≥100 acres	2	15
Expected project load (73 localities x 10 projects/locality)		730

Time Estimates for Projects:

Project Size	% of Total	# of permits		Hrs/ project*		Hours
≥1 acre, < 5 acres	47	343	x	47.0		16,121
≥5 acres, < 10 acres	20	146	x	56.9		8,307
≥10 acres, < 50 acres	27	197	x	74.5		14,677
≥50 acres, < 100 acres	4	29	x	100.8		2,923
≥100 acres	2	15	x	100.8		1,512
Total hours						43,540
* Based on handouts to SWM TAC (Aug 29, 2006) regarding plan reviews and inspections, total time per project						

- Staff Estimate for program admin = 43,540 hrs / 1,832 hrs/staff = 23.8. FTE = 24.
- DCR Staffing Costs (based on current average salary and benefits) = 24 x \$35.46 x 2080 = \$1,770,163
- 24 FTE x \$8,000 for administrative expenses including rent, utilities, computers, training, travel, printing expenses, etc. = \$192,000
- Total cost = \$1,962,163 million

Fees Collected (based on proposed fees for 73 Programs):

Project Size	% of Total	# of permits		Cost of permit		Revenue Generated
≥1 acre, < 5 acres	47	343	x	\$2,700		\$926,100
≥5 acres, < 10 acres	20	146	x	\$3,400		\$496,400
≥10 acres, < 50 acres	27	197	x	\$4,500		\$886,500
≥50 acres, < 100 acres	4	29	x	\$6,100		\$176,900
≥100 acres	2	15	x	\$9,600		\$144,000
Total fee revenue						\$2,629,900
DCR's 72% of Fees to operate 73 programs						\$1,893,528

Comparison of DCR's Costs versus 72% of Fees for 73 programs

DCR's staffing and oversight costs = \$1,962,163

DCR's Revenue from 72% of Fees = \$1,893,528

Additional Expenses Associated with Training and Certification Independent of the Fees

Locality and DCR staff implementing the consolidated stormwater management program will require training on stormwater management principles and practices. A certification program will be required for locality and DCR staff. The development and implementation of the training program is expected to cost approximately \$250,000 per year. It should be noted the costs of the training and certification program will be covered by fees for class attendance and exams and is not considered to be included in the 28% program oversight fees, nor are the FTE that would be necessary to administer the training program.